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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,861	09/24/2004	Satoshi Kobayashi	Q83700	8702

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EXAMINER

YAMNITZKY, MARIE ROSE

ART UNIT	PAPER NUMBER
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1774

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/508,861	KOBAYASHI ET AL.	
	Examiner	Art Unit	
	Marie R. Yamnitzky	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

(A) a non-polymeric metal complex represented by formula (3) wherein L^1 is

(i) a ligand represented by formula (4) wherein A is a single bond,

(ii) a ligand represented by formula (4) wherein A is a divalent group derived from a conjugate system,

(iii) a ligand represented by formula (5) wherein D is a single bond, or

(iv) a ligand represented by formula (5) wherein D is a divalent group derived from a conjugate system;

(B) a polymeric compound comprising a repeating unit of formula (8) wherein L^3 is

(i) a ligand represented by formula (12) wherein A is a single bond,

(ii) a ligand represented by formula (12) wherein A is a divalent group derived from a conjugate system,

(iii) a ligand represented by formula (13) wherein D is a single bond, or

(iv) a ligand represented by formula (13) wherein D is a divalent group derived from a conjugate system;

(C) a polymeric compound comprising a repeating unit of formula (9) wherein L^3 is

(i) a ligand represented by formula (12) wherein A is a single bond,

(ii) a ligand represented by formula (12) wherein A is a divalent group derived from a conjugate system,

(iii) a ligand represented by formula (13) wherein D is a single bond, or

(iv) a ligand represented by formula (13) wherein D is a divalent group derived from a conjugate system;

(D) a polymeric compound comprising a repeating unit of formula (10) wherein L^3 is

(i) a ligand represented by formula (12) wherein A is a single bond,

(ii) a ligand represented by formula (12) wherein A is a divalent group derived from a conjugate system,

(iii) a ligand represented by formula (13) wherein D is a single bond, or

(iv) a ligand represented by formula (13) wherein D is a divalent group derived from a conjugate system;

(E) a polymeric compound other than those comprising a repeating unit of formula (8), (9) or (10), wherein the polymeric compound has a structure represented by formula (10) at the polymer terminal wherein L^3 is

(i) a ligand represented by formula (12) wherein A is a single bond,

(ii) a ligand represented by formula (12) wherein A is a divalent group derived from a conjugate system,

(iii) a ligand represented by formula (13) wherein D is a single bond, or

(iv) a ligand represented by formula (13) wherein D is a divalent group derived from a conjugate system.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. That is, applicant is required to elect one of (A)(i)-(E)(iv). Applicant is also required to select an ultimate species (a specific non-polymeric complex or polymeric compound) that will be used as the starting point for search and examination purposes. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner (subject to claim interpretation as the limitations of some of the present claims are not clear):

(A)(i) and (A)(ii): claims 1-3 and 5-9

(A)(iii): claims 1, 2, and 5-9

(A)(iv): claims 1, 2 and 4-9

(B)(i)-(B)(iv): claims 10-20

(C)(i)-(C)(iv): claims 10, 11 and 13-20

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(D)(i)-(D)(iv): claims 10, 11 and 13-20

(E)(i)-(E)(iv): claims 10 and 12-20.

The following claim is generic: 1. (Note that the language of present claim 1 is confusing. The language in the first three lines of claim 1 implies that each of formula (1) and formula (2) represents a metal complex, but neither formula defines a metal complex. For purposes of this communication, claim 1 is interpreted as a generic claim encompassing any polymeric or non-polymeric compound comprising a metal complex having a group represented by formula (1) or formula (2) directly or indirectly attached to the metal complex.)

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The feature in common to all the species is, generically, a metal complex having a carbazole group directly or indirectly attached to the metal complex. A metal complex having a carbazole group directly or indirectly attached to the metal complex does not represent a special technical feature because such complexes do not define a contribution which the claimed invention makes over the prior art. As demonstrated by Kamatani et al. (US 6,953,628 B2), for example, a metal complex having a carbazole group attached to the complex was known in the art at the time of the invention. See No. 36 and No. 38 as defined in Table 1-1 (column 15-16) and see claim 1 of the patent.

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 7:00 a.m. to 3:30 p.m. Monday-Friday.

The current fax number for all official faxes is (571) 273-8300. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY

March 23, 2007



MARIE YAMNITZKY
PRIMARY EXAMINER

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